IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 7182 of 2004

Between:

Yerrabolu Krishna Reddy, S/o.Linga Reddy,
r/o.Madhapuram (V), Mudigonda (M), Khammam District.

..... PETITIONER

AND

1 The Assistant Commissioner of Endowments, O/o. Asst. Commissioner,

Endowments Department, Near Kamma
Hostel, Khammam District.
2 The Single Trustee/Person in Management, Sri Ankamma Temple,

Mudigonda (M), Khammam District.
3 The Mandal Revenue Officer, Mudigonda (M), Khammam District.
4 The Mandal Revenue Inspector, Mudigonda (M), Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS by declaring that the A.P. Charitable and Hindu Religious Institution of Endowments Act 1987 has no application to the land of the petitioner, i.e., in an extent of Ac.7.23 Gts. in R.S.Nos. 138, 139, 240, 189, 231, 232 and 223 situated at Madhapuram (v), Mudigonda (M), Khammam District and further declare that the action of the respondents in interfering with the above stated land of the petitioner as illegal, arbitrary and violative of Arts. 14, 19, 21 and 300-A of Constitution of India.

Counsel for the Petitioner: MR.Y.SUBRAHMANYAM

Counsel for the Respondent Nos.1 and 2: K.RAVI

Counsel for the Respondent Nos.3 and 4: G.P. FOR ENDOWMENTS

The Court made the following :

ORDER:

Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner herein claiming to be in possession and enjoyment of the land in R.S.Nos.138, 139, 240, 189, 231, 232 and 223 situated at Madhapuram Village, at Mudigonda Mandal, Khammam District, filed this Writ Petition, inter alia, seeking for Mandamus to declare that the provisions of the A.P. Charitable and Hindu Religious Institution of Endowments Act 1987 (for short 'the Act') has no application in respect of the said lands, since the petitioner claim absolute rights thereunder. Though in the main writ petition the petitioner raised several aspects claiming ownership, possession and enjoyment in respect of said lands, ultimately the main question revolves around is as to whether the respondents are entitled to proceed against the petitioner without taking recourse to the remedies as available under the provisions of the Act.

The case of the petitioner is that admittedly he is in possession and enjoyment and therefore the respondents cannot simply throw out him nor make any claim in respect of the said lands. Necessarily, appropriate action should be initiated under Section 83 of the Act for eviction of the petitioner, even though treating him as an encroacher and since yet no such proceedings having been initiated, the petitioner's apprehensions are perfectly valid.

Having heard the Counsel on either side and on perusal of the material it is seen that even as per the proceedings issued by the respondents herein, the petitioner is in occupation of the lands belong to the institution. The petitioner has no objection for appropriate proceedings being initiated, so that he can raise all the objections which can be considered and disposed of in accordance with law and on merits.

In the circumstances, the Writ Petition is disposed of directing the respondents not to dispossess the petitioner till after appropriate proceedings and steps are taken under Section 83 of the Act and orders are passed on merits by the competent

authority in accordance with law, after giving notice and opportunity to the petitioner.

No costs.

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B.PRAKASH RAO, J.

Dated 01-11-2004.

SKMR

To

1 The Assistant Commissioner of Endowments, O/o. Asst. Commissioner,

Endowments Department, Near Kamma
Hostel, Khammam District.

2 The Single Trustee/Person in Management, Sri Ankamma Temple,

Mudigonda (M), Khammam District.

3 The Mandal Revenue Officer, Mudigonda (M), Khammam District.

4 The Mandal Revenue Inspector, Mudigonda (M), Khammam District.

5. 2CCs to G.P. for Endowments, High Court Buildings, Hyderabad

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6. 2CD copies.